

Remarks:

Applicant has studied the Office Action dated January 6, 2006, and has amended the claims to distinctively claim the subject matter of the invention. By virtue of this amendment, the Title and claims 1, 10, 12 and 17-19 have been amended. Claims 15-16 have been canceled. New claim 21 is added. No new matter has been added. Support for the new claims and the amendments is found within the specification and the drawings, particularly on pages 7-9 of the original disclosure. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

§102 Rejection(s):

The Examiner has rejected claims 1, 5-6, 10, and 13-16 under 102(b) as being anticipated by US 6,195,535 to Kurchuk ('535) related to a transceiver for high power wireless telephones, wherein the transceiver has an over voltage protection circuit that does not run off during voice or data reception. During reception, if the output signal of the receiver exceeds a predetermined value, then a switch that connects the antenna to the transceiver is switched to an attenuated mode (see col. 2, lns. 36-60).

It is noteworthy that the disclosure of '535 is limited to a "cordless telephone system 10" (see col. 3, lns. 35-36) and that it does not support a time division synchronous CDMA (TD-CDMA) system such as that recited in claim 21.

Furthermore, the Applicant has reviewed the '535 reference thoroughly and is unable to find any teaching, disclosure or suggestion for a ground divider, as claimed in claim 1, for "dividing grounds for the receiver, the transmitter, and the switching mechanism, such that electrical components of the receiver are coupled to a receiver ground exclusive to the receiver, components of the transmitter are coupled to a transmitter ground exclusive to the transmitter, and components of the switching mechanism are coupled to a common ground."

The Examiner on page 3 of the Office Action refers to col. 4, lns. 7-47 and Fig. 3 of the '535 reference in rejecting claim 1 and claim 5 stating that "Q1 and Q2 turn on/off to divide signal between transmitter and receiver." Referring to col. 4, lns. 35-37, Q1 and Q2 more specifically are turned on/off to disconnect the antenna 15 from the transmitter 26. Accordingly, the cited portion of the reference fails to teach the recited "ground divider" in claim 1 for "dividing grounds for the receiver, the transmitter, and the switching mechanism."

It is respectfully noted that anticipation of claims using a drawing requires that "the picture must show all the claimed structural features and how they are put together" and "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art." M.P.E.P. §2125. Furthermore, anticipation of a claim under 35 U.S.C. §102 (a), (b) and (e) requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," that "[t]he identical invention must be shown in as complete detail as is contained in the ... claim" and "[t]he elements must be arranged as required by the claim." M.P.E.P. §2131.

Since the '535 reference fails to disclose at least one of the recited elements in the amended claims, a rejection under § 102 would be improper.

§103 Rejection(s):

Claims 2-4, 9, 11-12, 17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over the '535 reference in view of UK2277650 ('650) by Sugawara. Claims 8 and 18-19 are also rejected as obvious over the '650 reference in further view of US 2002/0115436 ('436) to Howell.

The '650 reference is directed to a high frequency amplifier that has an amplifying transistor whose operation mode can be selectively switched between active and inactive modes. The Examiner cites this reference contending that it can be combined with '535 and the combination of the two references teaches an antenna coupled to a circulator and a reception filter (i.e., filter 29 in the receiver circuit section 21 of Fig. 1), in the same manner as recited in the claims. This ground of rejection is respectfully traversed.

The '650 reference fails to teach, suggest or disclose a ground divider, as claimed in claim 1, for “dividing grounds for the receiver, the transmitter, and the switching mechanism, such that electrical components of the receiver are coupled to a receiver ground exclusive to the receiver, components of the transmitter are coupled to a transmitter ground exclusive to the transmitter, and components of the switching mechanism are coupled to a common ground.”

The '436 reference is directed to a self-contained “telematics system” for adjusting the transmission frequency period of location data and prioritizing the data sent from a remote unit to a base station, wherein the base station determines if the unit has moved beyond a predetermined perimeter (see Abstract). The Examiner cites this reference contending that it can be combined with both the '535 and '650 references to teach a “ferrite bead” in the manner recited in the claims. This ground of rejection is also traversed, because the '435 reference fails to teach, suggest or disclose a ground divider, as claimed in claim 1, for the reasons provided above.

The Examiner contends that it would have been obvious to combine the three cited references, however, she fails to provide an adequate motivation for combining the references, other than relying on hindsight stating that the combination “would have been obvious to an artisan of ordinary skill.”

Prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining the teachings.” In re Sernaker, 217 USPQ 1, 6 (Fed. Cir. 1983). Further, it is well settled that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Since obviousness may not be established by hindsight reconstruction or conjecture, Applicant invites the Examiner to point out the alleged

motivation to combine with specificity,¹ or alternatively provide a reference or affidavit in support thereof pursuant to MPEP §2144.03.²

It is also respectfully submitted that the cited prior art references are not relevant and cannot be combined to teach the claimed invention. Further, even if one is modified in accordance to the teaching of the other, the resultant modification would be an impractical or inoperable combination as the systems are independently complex and cannot be easily modified to work with each other. Further, there is no indication in the Office Action, how such combination is possible.

Even if the systems can be combined, the resultant combination will not function to accomplish the claimed functionality of the ground divider for “dividing grounds for the receiver, the transmitter, and the switching mechanism, such that electrical components of the receiver are coupled to a receiver ground exclusive to the receiver, components of the transmitter are coupled to a transmitter ground exclusive to the transmitter, and components of the switching mechanism are coupled to a common ground.”

“In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. ‘A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.’ In re Rijkenaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). Respectfully, the Examiner has failed to establish a prima facie case of obviousness.

For the above reasons, the invention as recited in amended claim 1 is distinguishable over the references cited by the Examiner. Claims 10 and 21 incorporate the discussed limitations of claim 1. Therefore, claims 1 and 10 and 21 should be in condition for allowance. Claims 2-5

¹ *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

² “The rationale supporting an obviousness rejection may be based on common knowledge in the art or “well-known” prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner.”

and 11-14, 17-19, respectively depending on claims 1 and 10 should also be in condition for allowance by virtue of their dependence on an allowable base claim.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
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Date: April 28, 2006

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